Patent
Attorney's Docket No. 012712-502

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
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Mitchell E. REFF *et al.*)
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Application No.: 09/019,441) Group Art Unit: 1644
)
Filed: February 5, 1998) Examiner: Marianne DiBrino
)
For: GAMMA 1 AND GAMMA 3 ANTI-HUMAN CD23 MONOCLONAL ANTIBODIES AND USE THEREOF AS THERAPEUTICS)

RESPONSE TO RESTRICTION REQUIREMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is in response to the Restriction Requirement dated June 17, 1999 (Paper No. 6). The period for response to this Official Action has been set to expire on July 19, 1999 (July 17, 1999 is a Saturday).

In complete response to the Official Action issued June 17, 1999, Applicants respectfully elect, with traverse, the invention of Group I (Claims 1-25 and 38-39), drawn to anti-human CD23 monoclonal antibodies and pharmaceutical compositions thereof.

M.P.E.P. § 803 states that an application may be properly restricted to one or more claimed inventions only if (1) the inventions are independent or distinct as claimed, and (2) there is a serious burden on the Examiner if restriction is not required. Therefore, even if appropriate reasons exist for requiring restriction, such a requirement should not be made unless there is an undue burden on the Examiner to examine all of the claims in a single application.

Although the Examiner alleged different classifications for the inventions of Groups I and II, it would seem that search and examination for both groups of inventions would substantially overlap. For example, the elected monoclonal antibodies of groups I are

directed to anti-human CD23 monoclonal antibodies which inhibit IgE expression. The claims of Group II relate to methods of treating/preventing a disease condition using these anti-human CD23 antibodies to inhibit IgE expression. The search and examination of the claims of Group I (*e.g.*, anti-human CD23 antibodies which inhibit IgE expression antibodies) would also correspondingly identify any methods of treating or preventing conditions that are therapeutically benefitted by the inhibition of IgE expression (*e.g.*, the claims of Group II). Because of this apparent overlap in search and examination, a serious burden would not be imposed on the Examiner to examine all the claims (Claims 1-39) in a single application, and the restriction is improper.

Accordingly, for at least all of the reasons set forth above, withdrawal of the requirement for restriction is requested.

If there are any questions concerning this paper, or the application in general, the Examiner is invited to telephone the undersigned at her earliest convenience.

Respectfully submitted,

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